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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,108	07/22/2005	Tomohiko Asakage	275022US3XPCT	4376
22850	7590	06/24/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER WILHELM, TIMOTHY				
ART UNIT		PAPER NUMBER		
3616				
NOTIFICATION DATE		DELIVERY MODE		
06/24/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/543,108

**Applicant(s)**

ASAKAGE ET AL.

**Examiner**

Timothy D. Wilhelm

**Art Unit**

3616

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4, and 9-11 is/are allowed.
- 6) ☒ Claim(s) 6 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

This office action was made in response to an amendment filed by Applicant on 3/14/2008.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loraas et al (5,931,254) in view of McGowan et al (6,577,909), and further in view of Takagi et al (6,630,749). Loraas et al disclose a construction machine comprising a hydraulic actuator driven by discharge oil from a hydraulic pump adapted to operate using an engine as a power source, an operator presence sensor 27 for detecting an access state of getting-on or getting-off of an operator, and control means adapted to stop said engine automatically when said operator presence sensor detects the getting-off of the operator. Loraas et al disclose the present invention except for the controller cutting off a power supply when said engine is stopped automatically. McGowan et al teach a method for automatically shutting down a machine during an operator's absence comprising a controller 105 that shuts down the engine and power source of a machine upon detecting the absence of the machine's operator. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

construction machine of Loraas et al with the teaching of McGowan et al's method of cutting off the power source when the engine is automatically shutdown to conserve power.

3. Loraas et al and McGowan et al further disclose the present invention except for the controller cutting off the power supply after a preset time has passed since the engine is stopped. Takagi et al teach a method of detecting engine shut down in a vehicle and shutting down an electrical power supply in said vehicle after a predetermined delay processing following said engine shut down detection. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the construction machine of Loraas et al and McGowan et al with the teaching of Takagi et al's delayed power supply shut down method to better prevent the consumption of the power supply.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loraas et al (5,931,254) in view of Perry (4,381,042). Loraas et al disclose a construction machine comprising a hydraulic actuator driven by discharge oil from a hydraulic pump adapted to operate using an engine as a power source, an operator presence sensor 27 for detecting an access state of getting-on or getting-off of an operator, and control means adapted to stop said engine automatically when said operator presence sensor detects the getting-off of the operator. Loraas et al disclose the present invention except for the system stopping the engine after a preset allowance time has passed. Perry teaches a system for shutting down a motor vehicle engine upon elapse of a predetermined amount of time after selected sensed input conditions are detected

during which the system gives a pre-warning to the vehicle operator prior to shutting off the engine. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the engine shutdown system of Loraas et al with the teaching of Perry's predetermined amount of time to give the operator ample time to correct the detected condition.

***Allowable Subject Matter***

5. Claims 1,3,4, and 9-11 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morrison can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Timothy D Wilhelm  
Examiner  
Art Unit 3616

/Timothy D Wilhelm/  
June 17, 2008

/Kevin Hurley/  
Acting SPE of Art Unit 3616